

BRIAN M. BOYNTON
Acting Assistant Attorney General
MARCIA BERMAN
Assistant Director, Federal Programs Branch
KATHRYN L. WYER (Utah Bar No. 9846)
U.S. Department of Justice, Civil Division
1100 L Street, N.W., Room 12014
Tel. (202) 616-8475
kathryn.wyer@usdoj.gov
Attorneys for Defendants

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ISAI BALTEZAR & JULIE CHO,

Plaintiffs,

v.

MIGUEL CARDONA, *et al.*,

Defendants.

Case No. 5:20-cv-455-EJD

**JOINT STIPULATION TO EXTEND
DEFENDANTS' DEADLINE TO FILE REPLY
IN SUPPORT OF MOTION TO REMAND;
PROPOSED ORDER**

Plaintiffs Isai Baltezar, and Julie Cho, and Defendants Miguel Cardona, in his official capacity as Secretary of Education, and the U.S. Department of Education ("Department"), through their respective undersigned counsel, submit this Joint Stipulation to request that Defendants' current November 18, 2021 deadline to file a reply in support of Defendants' motion to remand be extended to November 23, 2021. The parties state the following in support of their stipulated request:

1. On January 22, 2020, Plaintiffs filed a Complaint for Declaratory and Injunctive Relief, bringing eleven claims under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-706, in a challenge to a Final Rule promulgated by the Department. *See* ECF No. 1.

2. Defendants moved to dismiss this action for lack of standing. *See* ECF No. 26. Following briefing and a hearing on Defendants' motion, the Court issued an Order Granting in Part and Denying in Part Defendants' Motions to Dismiss on September 3, 2021. *See* ECF No. 33.

3. The parties filed a Case Management Statement on September 21, 2020. *See* ECF No. 35. Defendants filed a Motion for Partial Reconsideration of the Court's September 3, 2021, ruling on October 1, 2020. *See* ECF No. 38.

4. Following briefing on Defendants' motion, the Court denied reconsideration in relevant part in an Order issued on September 29, 2021. *See* ECF No. 44.

5. On October 27, 2021, the parties filed a Joint Stipulation indicating that Defendants intended to file a motion to remand this action to the Department. *See* Joint Stip. ¶ 7 [ECF No. 45]. On October 29, 2021, Defendants filed the motion to remand. *See* ECF No. 48.

6. On November 11, 2021, Plaintiffs American Federation of Teachers and California Federation of Teachers filed a notice of voluntary dismissal without prejudice. *See* ECF No. 49. On the same date, Plaintiffs Izai Baltezar and Julie Cho filed an opposition in part to Defendants' motion to remand. *See* ECF No. 50.

7. Pursuant to Local Rule 7-3, Defendants' reply in support of their motion to remand is currently due November 18, 2021. However, undersigned counsel for Defendants has been unable to work over the weekend due to illness and will have insufficient time to prepare a reply and allow for review by others before the current deadline. In addition, undersigned counsel will be out of town on leave during the week of Thanksgiving and has a dispositive motion deadline in another case on November 29, 2021.

8. Undersigned counsel therefore conferred with counsel for Plaintiffs regarding an extension of Defendants' reply deadline. In light of that discussion, the parties hereby stipulate and respectfully request, that the deadline for Defendants' reply be extended up to and including November 23, 2021.

1 Dated: November 18, 2021

Respectfully submitted,

2 BRIAN M. BOYNTON
3 Acting Assistant Attorney General
4 MARCIA BERMAN
5 Assistant Director, Federal Programs Branch

6 /s/ Kathryn L. Wyer

7 KATHRYN L. WYER (Utah Bar No. 9846)
8 U.S. Department of Justice, Civil Division
9 1100 L Street, N.W., Room 12014
10 Tel: (202) 616-8475
11 Email: kathryn.wyer@usdoj.gov

12 *Attorneys for Defendants*

13 /s/ Daniel A. Zibel

14 DANIEL A. ZIBEL*
15 AARON S. AMENT*
16 ROBYN K. BITNER*
17 NATIONAL STUDENT LEGAL DEFENSE
18 NETWORK
19 1015 15th Street N.W., Suite 600
20 Washington, D.C. 20005
21 dan@defendstudents.org
22 aaron@defendstudents.org
23 robyn@defendstudents.org
24 Tel: (202) 734-7495

25 GLENN ROTHNER (SBN 67353)
26 ROTHNER SEGALL & GREENSTONE
27 510 South Marengo Avenue
28 Pasadena, CA 91101
grothner@rsglabor.com
Telephone: (626) 796-7555
Facsimile: (626) 577-0124

Attorneys for Plaintiffs Isai Baltezar and Julie Cho

*Admitted *Pro Hac Vice*

PROOF OF CONCURRENCE

Pursuant to Civil Local Rule 5-1(i)(3), Defendants attest that all Plaintiffs, through their counsel, have concurred in the filing of this Stipulated Request.

Executed on November 18, 2021, in Washington, D.C.

/s/ Kathryn L. Wyer
KATHRYN L. WYER

ORDER RE DEFENDANTS' DEADLINE TO FILE MOTION TO REMAND

The above JOINT STIPULATION is approved. Defendants shall file their reply in support of their motion to remand on or before November 23, 2021.

IT IS SO ORDERED.

Dated: _____

EDWARD J. DAVILA
United States District Judge